

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

COMMISSIONERS:

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

2004 FEB -9 P 4: 51

Arizona Corporation Commission

DOCKETED

AZ CORP COMMISSION
DOCUMENT CONTROL

FEB 09 2004

DOCKETED BY	<i>CMR</i>
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In the matter of:

MUTUAL BENEFITS CORPORATION,

Respondent.

DOCKET NO. S-03464A-03-0000

**RESPONDENT'S THIRD REQUEST
FOR PRODUCTION OF DOCUMENTS**

Pursuant to the Rules of Practice before the Arizona Corporation Commission and Rule 34 of the Arizona Rules of Civil Procedure, Respondent Mutual Benefits Corporation (the "Respondent" or "MBC") requests that the documents or things designated in the attached list be produced for inspection and copying.

Except as provided otherwise in the attached list, the time and place of production are:

Time: Twenty (20) calendar days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

Place: Roshka Heyman & DeWulf, One Arizona Center, 400 East Van Buren Street, Suite 800, Phoenix, Arizona 85004.

The attached list sets forth the items to be produced, either by individual item or by category; describes each item and category with reasonable particularity; and specifies the reasonable time, place and manner of making the production and performing the related acts in connection with each item.

The party upon whom this Request is served shall satisfy or object to it in writing within twenty (20) days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

The Response shall state, with respect to each item or category, that the documents will be

1 produced and related activities will be permitted as requested, unless the Request is objected to, in
2 which event the reasons for objection shall be stated.

3 The documents or things sought by this Request include documents, information and
4 things in the possession, custody or control of the Securities Division, their attorneys and all
5 present and former agents, servants, representatives, investigators and others who may have
6 obtained custody of the documents and things on behalf of the party or their attorneys.

7 Unless otherwise indicated, this Request covers the time frame of January 1, 1998 to the
8 present.
9

10 **DEFINITIONS**

11 For the purposes of this Request for Production of Documents, the following terms and
12 references have been abbreviated and defined as follows:

- 13 1. The terms "and" and "or" shall be construed conjunctively or disjunctively,
14 whichever makes the document request more inclusive.
- 15 2. The terms "Securities Division," "you" and "your" shall mean the Securities
16 Division of the Arizona Corporation Commission.
- 17 3. The term "Respondent" shall mean Mutual Benefits Corporation.
- 18 4. The term "Notice" is intended to include the Notice of Opportunity for Hearing for
19 Docket No. S-03465A-02-0000.
20
- 21 5. The terms "document" or "documents" include, without limiting their generality,
22 all contracts, agreements, correspondence, letters, files, memoranda, messages, handwritten notes,
23 e-mail, inter- or intra-departmental or office or firm communications, telephone logs, telephone
24 messages, computer disks, hard drives, telegrams, newsletters or other publications, stock
25 certificates, stock options, promissory notes, appraisal reports, expressions of opinion as to value
26 or use of real or personal property, valuation estimates of any kind, financial data, *pro formas*,
27

1 estimates, financial projections, statements, credit and loan applications, accounting records and
2 worksheets, financial statements, diaries, calendars, logs, desk diaries, appointment books,
3 feasibility studies, recordings, notes of conversations, notes of meetings, notes of conferences,
4 notes of investigations, notes of opinions, notes of interviews, written statements, recorded or
5 taped interviews or statements, drafts of reports, preliminary reports, final reports, studies,
6 forecasts, prospectuses, charts, graphs, maps, drawings or other representations or depictions,
7 telephone records, motion picture film, audio or video tape recordings, facsimile copies, computer
8 printouts, data card programs or other input or output of data processing systems, photographs
9 (positive print, slides or negatives), microfilm or microfiche, or other data compilations from
10 which information can be obtained or translated through detection devices into reasonably usable
11 form, whether originals or copies, altered or unaltered, made by any means. The terms
12 "document" and "documents" also include all copies which are, in any manner, not identical in
13 content to the originals. Any comment or notation appearing on any document, and not a part of
14 the original text, is to be considered a separate "document." Any draft, or any other preliminary
15 form of any document, is also to be considered a separate "document."
16
17

18 6. The term "all documents" means every document, as defined above, known to you
19 and every document which can be located or discovered by reasonably diligent efforts.

20 7. The terms "writing" or "written" are intended to include, but not necessarily be
21 limited to, the following: handwriting, typewriting, printing, photographing and every other
22 means of recording upon any tangible thing, any form of communication later reduced to a writing
23 or confirmed by a letter.
24

25 8. The term "communication" means any oral, written, electronic, graphic,
26 demonstrative, or other transfer of information, ideas, opinions or thoughts between two or more
27 individuals or entities, regardless of the medium by which such communication occurred, and

1 shall include, without limitation, written contact by such means as letters, memoranda, telegrams,
2 telex, or any documents, and oral contact by such means as face to face meetings and telephone
3 conversations.

4 9. The terms "concerns" or "concerning" include referring to, alluding to, responding
5 to, relating to, connected with, commenting on, impinging or impacting upon, in respect of, about,
6 regarding, discussing, showing, describing, affecting, mentioning, reflecting, analyzing,
7 constituting, evidencing or pertaining to.

8
9 10. The term "person(s)" shall mean any natural person, corporation, partnership, sole
10 proprietorship, joint venture, association, limited liability company, governmental or other public
11 entity, or any other form of organization or legal entity, and all of their officials, directors,
12 officers, employees, representatives, attorneys and agents.

13 11. The terms "meeting" and "meetings" mean any coincidence of presence of two or
14 more persons between or among whom some communication occurs, whether or not such
15 coincidence of presence was by chance or prearranged, formal or informal, or in connection with
16 some other activity.

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18 **INSTRUCTIONS FOR USE**

19 A. In producing documents and things, indicate the particular request to which a
20 produced document or thing is responsive.

21 B. In producing documents and things, furnish all documents or things known or
22 available to you, regardless of whether such documents or things are possessed directly by you or
23 your directors, officers, agents, employees, representatives and investigators or by your attorneys
24 or their agents, employees, representatives or investigators.

25
26 C. If any requested document or thing cannot be produced in full, produce each such
27 document to the extent possible, specifying each reason for your inability to produce the

1 remainder and stating whatever information, knowledge or belief you have concerning the
2 unproduced portion and the expected dates on which full production can be completed.

3 D. If any documents or things requested were in existence but are no longer in
4 existence, then so state, specifying for each document or thing:

- 5 (1) The type of document or thing;
- 6 (2) The type(s) of information contained therein;
- 7 (3) The date upon which it ceased to exist;
- 8 (4) The circumstances under which it ceased to exist;
- 9 (5) The identity of each person or persons having knowledge or who
10 had knowledge of the contents thereof; and
- 11 (6) The identity of each person or persons having knowledge of the
12 circumstances under which each document or thing ceased to
13 exist.

14 E. This Request for Production of Documents is deemed to be continuing. If, after
15 producing documents and things, you obtain or become aware of any further documents, things or
16 information responsive to this Request for Production of Documents, you are required to produce
17 to Respondent such additional documents and things, or provide Respondent with such additional
18 information.

19 F. Documents attached to each other should not be separated.

20 G. In lieu of producing originals or copies thereof responsive to this Request, you
21 may, at your option, submit legible photographic or other reproductions of such documents,
22 provided that the originals or copies from which such reproductions were made are retained by
23 you until the final disposition of this proceeding.

24 H. In the event that you seek to withhold any documents, things or information on the
25 basis that it is properly subject to some limitation on discovery, you shall supply Respondent with
26 a list of the documents and things for which limitation of discovery is claimed, indicating:
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- (1) The name of each author, writer, sender or initiator of such document or thing, if any;
- (2) The name of each recipient, addressee or party for whom such document or thing was intended, if any;
- (3) The name of the person in custody or charge or possession of each such document;
- (4) The date of each such document, if any, or an estimate thereof and so indicated as an estimate;
- (5) The general subject matter as described in each such document, or, if no such description appears, then such other description sufficient to identify said document;
- (6) The name, business address and position of each person who has seen, or has access to or knowledge of, the contents or nature of any such document; and
- (7) The claimed grounds for limitation of discovery (e.g., "attorney-client privilege").

DOCUMENTS TO BE PRODUCED

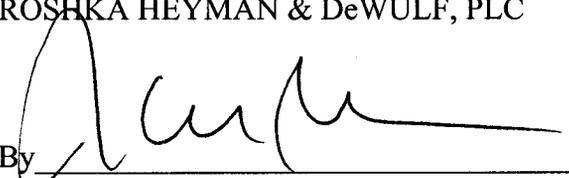
1. All documents that refer or relate to Respondent provided by the Securities Division to other regulatory agencies including, but not limited to, other securities regulatory agencies in the United States.

2. Copies of all correspondence between the Securities Division and any other regulatory agencies including, but not limited to, other securities regulatory agencies in the United States that refer or relate to Respondent.

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1 RESPECTFULLY SUBMITTED this 9th day of February, 2004.

2 ROSHKA HEYMAN & DeWULF, PLC

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4 By 

5 Paul J. Roshka, Jr., Esq.
6 Alan S. Baskin, Esq.
7 James M. McGuire, Esq.
8 One Arizona Center
9 400 East Van Buren Street, Suite 800
10 Phoenix, Arizona 85004
11 602-256-6100
12 602-256-6800 (facsimile)
13 Attorneys for Respondent
14 Mutual Benefits Corporation

15 ORIGINAL and thirteen copies of the foregoing
16 hand-delivered this 9th day of February, 2004 to:

17 Docket Control
18 Arizona Corporation Commission
19 1200 West Washington Street
20 Phoenix, Arizona 85007

21 COPY of the foregoing hand-delivered
22 this 9th day of February, 2004 to:

23 Marc E. Stern
24 Administrative Law Judge
25 Hearing Division
26 Arizona Corporation Commission
27 1200 West Washington Street
Phoenix, Arizona 85007

Matthew J. Neubert, Esq.
Pamela T. Johnson, Esq.
Securities Division
Arizona Corporation Commission
1300 West Washington Street, 3rd Floor
Phoenix, Arizona 85007



mutual.acc/pld/3rd Req for Docs.doc

ROSHKA HEYMAN & DeWULF, PLC

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